

**Notice of Allowability**

Application No.

09/963,820

Examiner

Gentle E. Winter

Applicant(s)

BREDO ET AL.

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper 033104.
2. ☒ The allowed claim(s) is/are 15-20, renumbered as claims 1-6.
3. ☒ The drawings filed on 26 September 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☒ None   of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103—Withdrawn*

1. Claims 15, and 17-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 2000 093338A to Kanetsuna and Gebrauchsmuster DE 29709738 to Helmstreit (Helmstreit), and claims 16 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kanetsuna, Helmstreit, and United States Patent No. 6,039,886 to Henkin.
2. The claims currently recite a single pumping means that draws a liquid in on the bottom of a floating object, and ejects the water from a point below the waterline. Additionally, the same pump, pumps liquid from a reservoir to a spray nozzle located above the waterline. The prior art of record fails to disclose drawing water in on the bottom portion, and ejecting the same water underwater as a propulsion system. It is not here suggested that the concept of a bottom intake-pump propulsion system is novel, nor is the balance of the invention novel. The novelty resides in the combination. The prior art of record fails to disclose bathtub cleaners having all of the claimed limitations. The closest prior art of record discloses drawing the propulsion liquid in as a means for simultaneously cleaning the surface and the propelling the object. This type of a propulsions system would be used as a means for scouring the surface and removing floating objects. The claims now recite that the water intake is on the bottom of the object, it is not clear why the artisan would be motivated to propel the object with a bottom intake and subsurface output. Therefore, without resorting to the instant invention disclosure as a blueprint for the reconstruction of the invention in the prior art, the claims are believed to be patentable over the prior art of record. It is of no consequence that the various limitations exist in the prior art, the mere existence, without the requisite motivation will not defeat patentability.

***Allowable Subject Matter***

1. Claims 15-20, renumbered as claims 1-6 are allowable.
2. The following is an examiner's statement of reasons for allowance:
3. The prior art of record fails to disclose drawing water in on the bottom portion, and ejecting the same water underwater as a propulsion system. It is not here suggested that the concept of a bottom intake-pump propulsion system is novel, nor is the balance of the invention novel. The novelty resides in the combination. The prior art of record fails to disclose bathtub cleaners having all of the claimed limitations. The closest prior art of record discloses drawing the propulsion liquid in as a means for simultaneously cleaning the surface and the propelling the object. This type of a propulsions system would be used as a means for scouring the surface and removing floating objects. The claims now recite that the water intake is on the bottom of the object, it is not clear why the artisan would be motivated to propel the object with a bottom intake and subsurface output.
4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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*Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gentle E. Winter whose telephone number is (571) 272-1310.

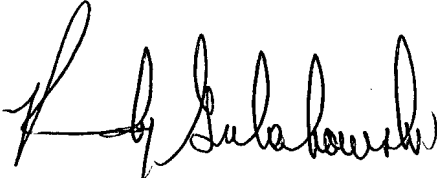
The examiner can normally be reached on Monday-Friday 7:00-3:30.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gentle E. Winter  
Examiner  
Art Unit 1746

May 3, 2004



RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700